

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JAMES H. FISCHER,

Docket No. 14 CV 1307
(PAE)

Plaintiff,

-against-

STEPHEN T. FORREST, Jr., SANDRA F.
FORREST, and SHANE R. GEBAUER,

Defendants.
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JAMES H. FISCHER,

Docket No. 14 CV 1304
(PAE)

Plaintiff,

-against-

STEPHEN T. FORREST, Jr., SANDRA F.
FORREST, and SHANE R. GEBAUER,

Defendants.
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AFFIRMATION IN SUPPORT OF MOTION TO DISMISS

DANIEL K. CAHN, an attorney at law being duly admitted to practice before the Courts of the State of New York, affirms the following under penalties of perjury:

1. I am a member of the firm of Law Offices of Cahn & Cahn, P.C., attorneys for the Defendants, in this action. I respectfully submit this brief affirmation in support of the Defendants Shane F. Gebauer's motion to dismiss filed on March 4, 2015 in these actions, pursuant to Rule 12(b)(6).

2. These motions are based solely on the four corners of the Second Amended Complaints and does not rely on any matters outside of said pleadings. The Second Amended Complaint in 14cv1304 appears as Document No. 50 on the Court's docket for 14cv 1304. The Second Amended Complaint in 14cv1307 appears as Document No. 70 on the Court's docket for 14cv1307.

3. Pursuant to Local Civil Rule 7.2, I have mailed or emailed (the latter with Plaintiffs consent) to the *pro se* Plaintiff copies of all of the authorities relied on which may not be available to the general public or which may be exclusively listed on computerized databases.

4. Based upon the arguments contained in the accompanying Memorandum of Law in Support of the Motion to Dismiss, it is respectfully submitted that the Court should dismiss the claims against Shane F. Gebauer in the Second Amended Complaint in 14cv1307 in its entirety and the copyright and §51 right of publicity claims in the 14cv1304 Second Amended Complaint, on the ground that these claims are time-barred.

Dated: March 4, 2015
Huntington, New York

/s/ Daniel K. Cahn
DANIEL K. CAHN (DC9791)